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(1) Be adult or non-adult dairy cattle, beef cattle, buffalo, beefalo, equine, sheep, goats, swine, poultry or deer.

(2) Died as a direct result of an applicable disaster, in an eligible county and during the applicable disaster period as set forth in § 760.101;

(3) Been maintained for commercial use as part of a farming operation on the day they died; and before dying;

(4) Not have been produced or maintained for reasons other than commercial use as part of a farming operation, including but not limited to wild free roaming animals or animals used for recreational purposes, such as pleasure, hunting, pets, or for show.

§ 760.404 Application process.

(a) Applicants must submit to FSA a completed application in accordance with § 760.105 and other supporting documents as determined by FSA to be necessary for making determinations of the eligibility of the applicant. Supporting documents must show: evidence of loss; current physical location of livestock in inventory; and physical location of claimed livestock at the time of death.

(b) Applicants must provide adequate proof that the death of the eligible livestock occurred during the applicable disaster period, and the death was a direct result of the occurrence of a 2005 hurricane as provided in § 760.101. The quantity and kind of livestock that died as a direct result of the applicable disaster may be documented by: Purchase records; veterinarian records; bank or other loan papers; rendering truck receipts; Federal Emergency Management Agency and National Guard records; written contracts; production records; IRS records; property tax records; private insurance documents; and any other similar documents.

(c) Certifications of livestock deaths by third parties may be accepted only if both the following conditions are met:

(1) The livestock owner or livestock contract grower, as applicable, certifies in writing:

- (i) That there is no other documentation of death available;
- (ii) The number of livestock, by category as determined by the Deputy Ad-

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ministrator, in inventory at the time the applicable disaster occurred;

(iii) Other details necessary for FSA to determine the certification acceptable; and

(2) The third party has provided to FSA their telephone number and address, and a statement containing:

(i) Specific details about their knowledge of the livestock deaths;

(ii) Their affiliation to the livestock owner or contract grower; and

(iii) The accuracy of the deaths claimed by the livestock owner or contract grower; and

(iv) Other details necessary for FSA to determine the certification acceptable.

§ 760.405 Payment calculation.

(a) Under LIP, separate payment rates are established for eligible livestock owners and eligible contract growers in accordance with paragraphs (b) and (c) of this section. LIP payments are calculated by multiplying the national payment rate, as determined in paragraphs (b) and (c) of this section, by the number of eligible livestock in each category, as provided in paragraph (d) of this section. The payment calculated for an eligible contract grower for an eligible livestock category shall be reduced by the amount of any compensation received from the contractor for the loss of income from the dead livestock.

(b) The LIP payment rate for eligible livestock owners is based on 75 percent of the average fair market value of the livestock.

(c) The LIP payment rates for eligible contract growers is based on 75 percent of the average income loss sustained by the contract grower with respect to the dead livestock.

(d) The categories of eligible livestock are as follows:

- (1) Adult beef cows;
- (2) Adult beef bulls;
- (3) Non-adult beef cattle;
- (4) Adult buffalo or beefalo cows;
- (5) Adult buffalo or beefalo bulls;
- (6) Non-adult buffalo/beefalo;
- (7) Adult dairy cows;
- (8) Adult dairy bulls;
- (9) Non-adult dairy cattle;
- (10) Swine, sows, boars, barrows, gilts over 150 pounds;

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- (11) Swine, sows, boars, barrows, gilts 50 to 150 pounds;
- (12) Swine, feeder pigs under 50 pounds;
- (13) Goats, bucks;
- (14) Goats, does;
- (15) Goats, kids;
- (16) Sheep, rams;
- (17) Sheep, ewes;
- (18) Sheep, lambs;
- (19) Deer;
- (20) Chickens, layers, roasters;
- (21) Chickens, broilers, pullets;
- (22) Chickens, chicks;
- (23) Turkeys, toms, fryers, roasters;
- (24) Turkeys, poults;
- (25) Ducks;
- (26) Ducks, ducklings;
- (27) Geese, goose;
- (28) Geese, gosling; and
- (29) Equine.

Subpart F—Tree Indemnity Program

SOURCE: 72 FR 878, Jan. 9, 2007, unless otherwise noted.

§ 760.501 Applicability.

(a) This subpart sets forth the terms and conditions applicable to the Tree Indemnity Program (TIP). Benefits will be provided under this subpart for eligible fruit trees, bushes, and vines that were lost or damaged during the disaster period as set forth in § 760.101.

(b) Compensation will be based on expenses incurred for replanting, rehabilitation, cleanup, and debris removal.

(c) No benefits shall be provided when the loss:

- (1) Occurred in any county other than an eligible county, or
- (2) Was not the result of an eligible disaster as set forth in § 760.101.

§ 760.502 Eligible producers and stands.

(a) An eligible fruit tree, bush, and/or vine producer is one who bears financial responsibility and who has incurred costs of at least \$90 per acre for replanting, rehabilitation, cleanup, or debris removal, excluding crop production.

(b) An eligible stand must:

- (1) Be physically located in an eligible county;

(2) Have been impacted during a 2005 hurricane as set forth in § 760.101; and

(3) Be grown for commercial use.

§ 760.503 Application process.

(a) Applicants must submit a completed application and report of acreage identifying the geographic location and number of acres in the disaster-affected stand of claimed fruit trees, bushes, and vines in accordance with part 718 of this chapter, and any other supporting documentation for FSA to determine the eligibility of the applicant.

(b) Applicants must certify and provide adequate proof that the expenses incurred to eligible fruit trees, bushes, or vines occurred during the applicable disaster period and that the loss or damage was a direct result of a 2005 hurricane, as set forth in § 760.101.

(c) The quantity and kind of fruit trees, bushes, or vines that died or were damaged as a result of the applicable disaster may be documented by: purchase records; bank or other loan documents; Federal Emergency Management Agency and National Guard records; IRS records; property tax records; private insurance documents; and similar documents.

§ 760.504 Payment calculation.

(a) TIP payments shall be calculated by multiplying the following national payment rate for the applicable tier by the number of eligible acres, excluding but not limited to such things as drainage ditches and canals, in a stand of fruit trees, bushes, or vines by the producer's share in such crop:

- (1) Tier I—\$750;
- (2) Tier II—\$300;
- (3) Tier III—\$200; and
- (4) Tier IV—\$90.

(b) If the actual expenses incurred for damage are greater than the value associated with the tier based on the location of the stand, the applicant may submit documentation to FSA to request the stand be placed in the next lower-numbered tier which represents a greater level of loss and a higher payment rate. Regardless of the expenses incurred the stand can only be placed in the next lower-numbered tier.